

## ASSEMBLY BILL 40

## SECTION 1097

1       **SECTION 1097.** 49.471 (4) (a) 4. b. of the statutes is amended to read:  
2       49.471 (4) (a) 4. b. ~~Except as provided in subd. 4. c. of the~~ <sup>Except as provided in sub. (4m), the</sup> The individual's family  
3       income does not exceed 200 100 percent of the poverty line and ~~does not include~~  
4       ~~self-employment income before application of the 5 percent income disregard under~~  
5       42 CFR 435.603 (d).

6       **SECTION 1098.** 49.471 (4) (a) 4. c. of the statutes is repealed.

7       **SECTION 1099.** 49.471 (4) (a) 5. of the statutes is amended to read:

8       49.471 (4) (a) 5. An individual who, regardless of family income, was born on  
9       or after January 1, 1990 1988, and who, on his or her 18th birthday, was in a foster  
10       care placement under the responsibility of ~~a~~ this state, or at the option of the  
11       department, under the responsibility of another state, and enrolled in Medical  
12       Assistance under this subchapter or a Medicaid program, as determined by the  
13       department. The coverage for an individual under this subdivision ends on the last  
14       day of the month in which the individual becomes ~~21~~ 26 years of age, unless he or she  
15       otherwise loses eligibility sooner.

16       **SECTION 1100.** 49.471 (4) (a) 7. of the statutes is amended to read:

17       49.471 (4) (a) 7. Individuals who qualify for a medical assistance eligibility  
18       extension under s. 49.46 (1) (c), (cg), or (co) when their income increases above the  
19       poverty line, except as provided in s. 49.46 (1) (cr).

20       **SECTION 1101.** 49.471 (4) (b) 1. of the statutes is ~~repealed~~.

21       **SECTION 1102.** 49.471 (4) (b) 1m. of the statutes is ~~repealed~~.

22       **SECTION 1103.** 49.471 (4) (b) 2. of the statutes is ~~repealed~~.

23       **SECTION 1104.** 49.471 (4) (b) 3. of the statutes is ~~amended to read:~~

24       49.471 (4) (b) 3. A child whose family income exceeds 200 percent but does not  
25       exceed 300 percent of the poverty line. ~~For a child under this subdivision who is an~~

Both changes were made correctly  
w/o double periods. Sacu

renumbered 49.471 (4) (a) 1g<sup>+</sup>

renumbered 49.471 (4) (a) 1m<sup>+</sup>

renumbered 49.471 (4) (a) 2m<sup>+</sup>

and amended to read:

renumbered

49.471 (4) (a) 3g<sup>+</sup>

insert  
571-20 →

insert  
571-23 →

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## SECTION 1104

1 3m. An unborn child, whose family income exceeds 200 percent but does not  
2 exceed 300 percent of the poverty line, except benefits are limited to prenatal care.

3 **SECTION 1105.** 49.471 (4) (b) 4. of the statutes is repealed.

✓ 4 **SECTION 1106.** 49.471 (4) (c) of the statutes is repealed.

5 **SECTION 1107.** 49.471 (4) (e) of the statutes is created to read:

6 49.471 (4) (e) If the department obtains approval from the federal department  
7 of health and human services to provide an alternate benchmark plan under sub.  
8 (11r), to the extent the federal department of health and human services approves,  
9 the department may enroll in the alternate benchmark plan under sub. (11r) any  
10 individual whose family income exceeds 100 percent of the poverty line, who is either  
11 an adult who is not pregnant or a child, and who applies and is otherwise eligible to  
12 receive benefits under this section, except that the department shall enroll a child  
13 who has a parent who is enrolled in a plan under this section in the same plan as his  
14 or her parent.

insert  
72-  
15  
15 **SECTION 1108.** 49.471 (5) (b) 1. of the statutes is amended to read:

16 49.471 (5) (b) 1. Except as provided in sub. (6) (a) 1., a pregnant woman is  
17 eligible for the benefits specified in par. (c) during the period beginning on the day  
18 on which a qualified provider determines, on the basis of preliminary information,  
19 that the woman's family income does not exceed 300 133 percent of the poverty line  
20 and ending on the applicable day specified in subd. 3.

21 **SECTION 1109.** 49.471 (5) (b) 2. of the statutes is renumbered 49.471 (5) (b) 2.  
22 (intro.) and amended to read:

23 49.471 (5) (b) 2. (intro.) Except as provided in sub. (6) (a) 2., a child who is not  
24 an unborn child is eligible for the benefits described in s. 49.46 (2) (a) and (b) during  
25 the period beginning on the day on which a qualified entity determines, on the basis

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## SECTION 1109

1 of preliminary information, that the child's family income does not exceed 150  
2 percent of the poverty line any of the following and ending on the applicable day  
3 specified in subd. 3., unless the federal department of health and human services  
4 approves the department's request to not extend eligibility to children during this  
5 period:

6 **SECTION 1110.** 49.471 (5) (b) 2. a. to c. of the statutes are created to read:

7 49.471 (5) (b) 2. a. 150 percent of the poverty line for a child who is 6 years of  
8 age or older but has not yet attained the age of 19.

9 b. 185 percent of the poverty line for a child who is one year of age or older but  
10 has not yet attained the age of 6.

11 c. 300 percent of the poverty line for a child who is under one year of age.

12 **SECTION 1111.** 49.471 (5) (b) 3. a. of the statutes is amended to read:

13 49.471 (5) (b) 3. a. If the woman or child applies for benefits under sub. (4)  
14 within the time required under par. (d), the benefits specified in subd. 1. or 2.,  
15 whichever is applicable, end on the day on which the department or the county  
16 department under s. 46.215, 46.22, or 46.23 determines whether the woman or child  
17 is eligible for benefits under sub. (4), except that a child who is not an unborn child  
18 is not eligible for benefits described in s. 49.46 (2) (a) and (b) during that time if the  
19 federal department of health and human services approves the department's request  
20 not to provide those benefits during that time.

21 **SECTION 1112.** 49.471 (5) (c) 1. of the statutes is renumbered 49.471 (5) (c) and  
22 amended to read:

23 49.471 (5) (c) On behalf of a woman under par. (b) 1. ~~whose family income does~~  
24 ~~not exceed 200 percent of the poverty line,~~ the department shall audit and pay

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## SECTION 1112

allowable charges to a provider certified under s. 49.45 (2) (a) 11. only for ambulatory prenatal care services under the benefits described in s. 49.46 (2) (a) and (b).

**SECTION 1113.** 49.471 (5) (c) 2. of the statutes is repealed.

**SECTION 1114.** 49.471 (6) (a) 1. of the statutes is amended to read:

49.471 (6) (a) 1. ~~Any~~ Except as provided in subd. 4., any pregnant woman, including a pregnant woman under sub. (5) (b) 1., is eligible for medical assistance under this section for any of the 3 months prior to the month of application if she met the eligibility criteria under this section in that month.

**SECTION 1115.** 49.471 (6) (a) 2. of the statutes is amended to read:

49.471 (6) (a) 2. ~~Any~~ Except as provided in subd. 3. or 4., any child who is not an unborn child, including a child under sub. (5) (b) 2., parent, or caretaker relative whose family income is less than 150 percent of the poverty line is eligible for medical assistance under this section for any of the 3 months prior to the month of application if the individual met the eligibility criteria under this section and had a family income of less than 150 percent of the poverty line in that month.

**SECTION 1116.** 49.471 (6) (a) 3. of the statutes is created to read:

49.471 (6) (a) 3. Any individual described in subd. 2. who is not disabled, not elderly, and not pregnant, who is an adult, and whose family income exceeds 133 percent of the federal poverty level is not eligible for medical assistance under this section for any of the 3 months before the month of application for medical assistance benefits.

**SECTION 1117.** 49.471 (6) (a) 4. of the statutes is created to read:

49.471 (6) (a) 4. To the extent allowed by the federal department of health and human services, any individual described in subd. 1. or 2. who is not disabled is not

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## SECTION 1117

1 eligible for medical assistance under this section for any of the 3 months before the  
2 month of application for medical assistance benefits.

Insert  
575-3  
3 **SECTION 1118.** 49.471 (7) (a) of the statutes is repealed.

4 **SECTION 1119.** 49.471 (7) (b) 1. of the statutes is amended to read:

5 49.471 (7) (b) 1. ~~A~~ Eligibility for a pregnant woman whose family income  
6 exceeds 300 133 percent of the poverty line may become eligible for coverage under  
7 this section if the difference between the pregnant woman's family income and the  
8 applicable income limit under sub. (4) (b) is obligated or expended for any member  
9 of the pregnant woman's family for medical care or any other type of remedial care  
10 recognized under state law or for personal health insurance premiums or for both.  
11 Eligibility obtained under this subdivision continues without regard to any change  
12 in family income for the balance of the pregnancy and to the last day of the month  
13 in which the 60th day after the last day of the woman's pregnancy falls. Eligibility  
14 obtained by a pregnant woman under this subdivision extends to all pregnant  
15 women in the pregnant woman's family is determined under the method described  
16 in s. 49.47 (4) (c).

Insert  
75-17  
17 **SECTION 1120.** 49.471 (7) (b) 2. of the statutes is amended to read:

18 49.471 (7) (b) 2. A child who is not an unborn child, whose family income  
19 exceeds 150 percent of the poverty line, and who is ineligible under this section solely  
20 because of sub. (8) (b), or whose family income exceeds 300 percent of the poverty line,  
21 may obtain eligibility under this section if the difference between the child's family  
22 income and 150 percent of the poverty line is obligated or expended on behalf of the  
23 child or any member of the child's family for medical care or any other type of  
24 remedial care recognized under state law or for personal health insurance premiums  
25 or for both. Eligibility obtained under this subdivision during any 6-month period,

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## SECTION 1120

1 as determined by the department, continues for the remainder of the 6-month period  
2 and extends to all children in the family.

3 **SECTION 1121.** 49.471 (7) (b) 3. of the statutes is amended to read:

4 49.471 (7) (b) 3. ~~For a pregnant woman to obtain eligibility under subd. 1., the~~  
5 ~~amount that must be obligated or expended in any 6-month period is equal to the~~  
6 ~~sum of the differences in each of those 6 months between the pregnant woman's~~  
7 ~~monthly family income and the monthly family income that is 300 percent of the~~  
8 ~~poverty line.~~ For a child to obtain eligibility under subd. 2., the amount that must  
9 be obligated or expended in any 6-month period is equal to the sum of the differences  
10 in each of those 6 months between the child's monthly family income and the monthly  
11 family income that is 150 percent of the poverty line.

12 **SECTION 1122.** 49.471 (7) (c) (intro.) of the statutes is amended to read:

13 49.471 (7) (c) (intro.) When calculating an individual's family income, the  
14 department shall do all of the following, subject to par. (d):

15 **SECTION 1123.** 49.471 (7) (c) of the statutes, as affected by 2013 Wisconsin Act  
16 .... (this act), is repealed.

17 **SECTION 1124.** 49.471 (7) (d) of the statutes is created to read:

18 49.471 (7) (d) In addition to applying other income counting requirements the  
19 department shall do all of the following:

20 1. When calculating the family income of a member of a household who is not  
21 disabled, include the income of all adults residing in the home for at least 60  
22 consecutive days but exclude the income of a grandparent in a household containing  
23 3 generations, unless the grandparent applies for or receives benefits as a parent or  
24 caretaker relative under this section.

**ASSEMBLY BILL 40****SECTION 1124**

1           2. When determining the size of a family for purposes of determining income  
2           eligibility, exclude from family size an adult whose income is included in a calculation  
3           of family income solely under subd. 1.

4           3. Apply this paragraph only to the extent the federal department of health and  
5           human services approves the income eligibility calculation methods, if approval is  
6           required.

7           **SECTION 1125.** 49.471 (7) (e) of the statutes is created to read:

8           49.471 (7) (e) For the purpose of determining family income, the department  
9           shall apply the regulations defining a household under 42 CFR 435.603 (f). To  
10          determine the family size for a pregnant woman, the department shall include the  
11          pregnant woman and the number of babies she is expecting.

12          **SECTION 1126.** 49.471 (8) (b) (intro.) of the statutes is amended to read:

13          49.471 (8) (b) (intro.) Except as provided in pars. (c), (cg), (cr), (ct), and (d), an  
14          individual whose family income exceeds 150 percent of the poverty line is not eligible  
15          for BadgerCare Plus if any of the following applies:

16          **SECTION 1127.** 49.471 (8) (cg) of the statutes is created to read:

17          49.471 (8) (cg) An individual who is not disabled and not pregnant, who is over  
18          18 years of age, and whose family income exceeds 133 percent of the poverty line is  
19          not eligible for BadgerCare Plus if all of the following apply:

20           1. The individual has any of the following:

21           a. Access to individual or family health coverage provided by an employer in  
22           which the monthly premium that an employee would pay for an employee-only  
23           policy does not exceed 9.5 percent of the family's monthly income.

24           b. Access to individual or family health coverage under the state employee  
25           health plan.

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1           2. The individual has access to any coverage described in subd. 1. during any  
2 of the following times:

3           a. The 12 months before the first day of the month in which an individual  
4 applies for and the month in which an individual applies for BadgerCare Plus.

5           b. The 3 months after the last day of the month in which the individual applies  
6 for BadgerCare Plus.

7           c. The month including the date of the annual determination of the individual's  
8 eligibility for Medical Assistance.

9           3. The individual does not have as a reason for not obtaining health insurance  
10 any of the good cause reasons under par. (d) 2. a. to e.

11           **SECTION 1128.** 49.471 (8) (cr) of the statutes is created to read:

12           49.471 (8) (cr) 1. Subject to subd. 4., an individual who is any of the following  
13 is not eligible for BadgerCare Plus if the criteria under par. (cg) 1. and 2. apply to that  
14 individual:

15           a. An individual who is not disabled and who is a child, or unborn child, of an  
16 individual whose family income is at a level determined by the department but no  
17 lower than 133 percent of the poverty line.

18           b. A parent or caretaker relative who is not disabled, not pregnant, and an adult  
19 and whose family income is at a level determined by the department but no lower  
20 than 100 percent of the poverty line.

21           c. An adult, including a pregnant individual, who is not disabled, who is under  
22 26 years of age; who is eligible to be covered under coverage a parent receives from  
23 an employer; and whose family income is at a level determined by the department  
24 but no lower than 100 percent of the poverty line.



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1           2. An individual under subd. 1. is not ineligible if any of the good cause reasons  
2 described in par. (d) 2. a. to e. is the reason that the individual did not obtain health  
3 insurance coverage.

4           3. An individual under subd. 1. c. is not ineligible if any of the following good  
5 cause reasons is the reason the individual did not obtain health insurance coverage:

6           a. The parent of the individual is no longer employed by the employer through  
7 which the parent was eligible for coverage, and the parent does not have current  
8 coverage.

9           b. The employer of the parent of the individual discontinued providing health  
10 benefits to all employees.

11           4. The department may apply this paragraph to eligibility determinations for  
12 BadgerCare Plus only if the federal department of health and human services  
13 approves of the conditions to make that individual ineligible, if approval is required.

14           **SECTION 1129.** 49.471 (8) (ct) of the statutes is created to read:

15           49.471 (8) (ct) 1. If the federal department of health and human services  
16 approves the department's request to add private major medical insurance as a type  
17 of coverage which causes ineligibility, an individual who is not disabled and not  
18 pregnant, who is over 18 years of age, whose family income exceeds 133 percent of  
19 the poverty line, and who has coverage provided by private major medical insurance  
20 in which the monthly premium does not exceed 9.5 percent of the family's monthly  
21 income is not eligible for BadgerCare Plus.

22           2. If the federal department of health and human services approves of the  
23 conditions to make that individual ineligible for BadgerCare Plus, an individual who  
24 is any of the following is not eligible for BadgerCare Plus if he or she has the major  
25 medical insurance coverage described under subd. 1.:

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## SECTION 1129

1 a. An individual who is not disabled and who is a child, or unborn child, of an  
2 individual whose family income is at a level determined by the department but no  
3 lower than 133 percent of the poverty line.

4 b. A parent or caretaker relative who is not disabled, not pregnant, and an adult  
5 and whose family income is at a level determined by the department but no lower  
6 than 100 percent of the poverty line.

7 **SECTION 1130.** 49.471 (8) (d) 1. a. of the statutes is amended to read:

8 49.471 (8) (d) 1. a. A pregnant woman, except as provided in pars. (cr) 1. c. and  
9 (fm) 4.

10 **SECTION 1131.** 49.471 (8) (d) 1. b. of the statutes is amended to read:

11 49.471 (8) (d) 1. b. A child described in sub. (4) (a) 2. <sup>or</sup> ~~(b) 2.~~ <sup>2m.</sup>

12 **SECTION 1132.** 49.471 (8) (d) 1. g. of the statutes is created to read:

13 49.471 (8) (d) 1. g. An adult who is disabled.

14 **SECTION 1133.** 49.471 (8) (d) 2. dg. of the statutes is created to read:

15 49.471 (8) (d) 2. dg. The insurance is owned by someone not residing with the  
16 family and continuation of the coverage is beyond the family's control.

17 **SECTION 1134.** 49.471 (8) (d) 2. dr. of the statutes is created to read:

18 49.471 (8) (d) 2. dr. The insurance only covers services provided in a service  
19 area that is beyond a reasonable driving distance.

20 **SECTION 1135.** 49.471 (8) (e) of the statutes is repealed.

21 **SECTION 1136.** 49.471 (8) (f) of the statutes is amended to read:

22 49.471 (8) (f) If an individual with a family income that exceeds 150 percent  
23 of the poverty line had the health insurance coverage specified in par. (b) 1. but no  
24 longer has the coverage, or if an individual who is an unborn child or an unborn  
25 child's mother, regardless of family income, had health insurance coverage but no

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## SECTION 1136

1 longer has the coverage, ~~or if a pregnant woman specified in par. (e) has health~~  
2 ~~insurance coverage and does not maintain the coverage, the individual or pregnant~~  
3 ~~woman~~ is not eligible for BadgerCare Plus for the 3 calendar months following the  
4 month in which the insurance coverage ended without a good cause reason specified  
5 in par. (g).

6 **SECTION 1137.** 49.471 (8) (fm) of the statutes is created to read:

7 49.471 (8) (fm) If an individual who is one of the following individuals had the  
8 health insurance coverage specified in par. (cg) 1. or (ct) but no longer has the  
9 coverage, the individual is not eligible for BadgerCare Plus for the 3 calendar months  
10 following the month in which the insurance coverage ended without a good cause  
11 reason specified in par. (g):

12 1. An individual who is not disabled and not pregnant, who is over 18 years of  
13 age, and whose family income exceeds 133 percent of the poverty line.

14 2. If the federal department of health and human services approves of the  
15 department's request to make such an individual ineligible, an individual who is not  
16 disabled and who is a child of an individual whose family income is at a level  
17 determined by the department but no lower than 133 percent of the poverty line.

18 3. If the federal department of health and human services approves of the  
19 department's request to make such an individual ineligible, a parent or caretaker  
20 relative who is not disabled, not pregnant, and an adult and whose family income is  
21 at a level determined by the department but no lower than 100 percent of the poverty  
22 line.

23 4. If the federal department of health and human services approves of the  
24 department's request to make such an individual ineligible, an adult, including a  
25 pregnant individual, who is not disabled, who is under 26 years of age; who is eligible

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## SECTION 1137

1 to be covered under coverage a parent receives from an employer; and whose family  
2 income is at a level determined by the department but no lower than 100 percent of  
3 the poverty line.

4 **SECTION 1138.** 49.471 (8) (g) (intro.), 1., 2., 3., 4. and 5. of the statutes are  
5 amended to read:

6 49.471 (8) (g) (intro.) Any of the following is a good cause reason for purposes  
7 of ~~par.~~ pars. (f) and (fm):

8 1. The individual ~~or pregnant woman~~ was covered by a group health plan that  
9 was provided by a subscriber through his or her employer, and the subscriber's  
10 employment ended for a reason other than voluntary termination, unless the  
11 voluntary termination was a result of the incapacitation of the subscriber or because  
12 of an immediate family member's health condition.

13 2. The individual ~~or pregnant woman~~ was covered by a group health plan that  
14 was provided by a subscriber through his or her employer, the subscriber changed  
15 employers, and the new employer does not offer health insurance coverage.

16 3. The individual ~~or pregnant woman~~ was covered by a group health plan that  
17 was provided by a subscriber through his or her employer, and the subscriber's  
18 employer discontinued health plan coverage for all employees.

19 4. The ~~pregnant woman's~~ individual's coverage was continuation coverage and  
20 the continuation coverage was exhausted in accordance with 29 CFR 2590.701-2 (4).

21 5. The individual's ~~or pregnant woman's~~ coverage terminated due to the death  
22 or change in marital status of the subscriber.

23 **SECTION 1139.** 49.471 (8) (g) 5g. of the statutes is created to read:

24 49.471 (8) (g) 5g. The insurance coverage is owned by someone not residing  
25 with the family and continuation of the coverage is beyond the family's control.

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## SECTION 1140

1           **SECTION 1140.** 49.471 (8) (g) 5r. of the statutes is created to read:

2           49.471 (8) (g) 5r. The insurance coverage only covers services provided in a  
3           service area that is beyond a reasonable driving distance.

4           **SECTION 1141.** 49.471 (9) (a) 2. b. of the statutes is amended to read:

5           49.471 (9) (a) 2. b. A child described in sub. (4) (a) 2. ~~or (b) 2.~~ <sup>or 2m.</sup>

6           **SECTION 1142.** 49.471 (10) (b) 1. of the statutes is amended to read:

7           49.471 (10) (b) 1. Except as provided in ~~subd.~~ subds. 1m. and 4., a recipient who  
8           is an adult, who is not a pregnant woman, and whose family income is greater than  
9           150 percent but not greater than 200 percent of the poverty line shall pay a premium  
10          for coverage under BadgerCare Plus that does not exceed 5 percent of his or her  
11          family income. If the recipient has self-employment income and is eligible under  
12          sub. (4) (b) 4., the premium may not exceed 5 percent of family income calculated  
13          before depreciation was deducted.

14          **SECTION 1143.** 49.471 (10) (b) 1. of the statutes, as affected by 2013 Wisconsin  
15          Act .... (this act), is amended to read:

16          49.471 (10) (b) 1. Except as provided in subds. 1m. and 4., a recipient who is  
17          an adult, who is not a pregnant woman, and whose family income is greater than 150  
18          percent but not greater than 200 percent of the poverty line shall pay a premium for  
19          coverage under BadgerCare Plus that does not exceed 5 percent of his or her family  
20          income. ~~If the recipient has self-employment income and is eligible under sub. (4)~~  
21          ~~(b) 4., the premium may not exceed 5 percent of family income calculated before~~  
22          ~~depreciation was deducted.~~

23          **SECTION 1144.** 49.471 (10) (b) 1m. of the statutes is created to read:

24          49.471 (10) (b) 1m. Except as provided in subd. 4., a recipient who is an adult  
25          parent or adult caretaker relative; who is not disabled, pregnant, or American

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## SECTION 1144

1 Indian; and whose family income exceeds 133 percent of the federal poverty line shall  
2 pay a premium for coverage under BadgerCare Plus in an amount determined by the  
3 department that is based on a formula in which costs decrease for those with lower  
4 family incomes and that is no less than 3 percent of family income but no greater than  
5 9.5 percent of family income. If the recipient has self-employment income and is  
6 eligible under sub. (4) (b) 4., the premium may not exceed 5 percent of family income  
7 calculated before depreciation was deducted.

8 **SECTION 1145.** 49.471 (10) (b) 1m. of the statutes, as affected by 2013 Wisconsin  
9 Act .... (this act), is repealed.

10 **SECTION 1146.** 49.471 (10) (b) 2. of the statutes is amended to read:

11 49.471 (10) (b) 2. Except as provided in subds. 3. 3m. and 4., a recipient who  
12 is a child whose family income is greater than 200 percent of the poverty line shall  
13 pay a premium for coverage of the benefits described in sub. (11) that does not exceed  
14 the full per member per month cost of coverage for a child with a family income of  
15 300 percent of the poverty line.

16 **SECTION 1147.** 49.471 (10) (b) 3. of the statutes is repealed.

17 **SECTION 1148.** 49.471 (10) (b) 3m. of the statutes is created to read:

18 49.471 (10) (b) 3m. A recipient who is a child, who is not disabled, and whose  
19 family income is at a level determined by the department that is at least 150 percent  
20 of the poverty line shall pay a premium in an amount determined by the department.  
21 The department may apply this subdivision only to the extent the federal  
22 department of health and human services approves applying a premium to those  
23 individuals, if approval is required.

24 **SECTION 1149.** 49.471 (10) (b) 4. (intro.) of the statutes is amended to read:

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1 49.471 (10) (b) 4. (intro.) None of the following shall pay a premium, except as  
2 provided in subd. 3m.:

3 **SECTION 1150.** 49.471 (10) (b) 4. b. of the statutes is amended to read:

4 49.471 (10) (b) 4. b. A child who is eligible under sub. (4) (a) 2. ~~or (b) 2.~~ <sup>or 2m.</sup>

5 **SECTION 1151.** 49.471 (10) (b) 5. of the statutes is amended to read:

6 49.471 (10) (b) 5. If a recipient who is required to pay a premium under this  
7 paragraph or under sub. (2m) or (4) (c) either does not pay a premium when due or  
8 requests that his or her coverage under this section be terminated, the recipient's  
9 coverage terminates and. If the recipient is an adult, the recipient is not eligible for  
10 BadgerCare Plus for 6 12 consecutive calendar months following the date on which  
11 the recipient's coverage terminated, except for any month during that ~~6-month~~  
12 ~~12-month~~ period when the recipient's family income does not exceed ~~150~~ 133 percent  
13 of the poverty line. If the recipient is a child, the recipient is not eligible for  
14 BadgerCare Plus for ~~6~~ <sup>or 3</sup> consecutive calendar months, or ~~12~~ <sup>up to</sup> consecutive calendar  
15 months if the federal department of health and human services approves, following  
16 the date on which the recipient's coverage terminated, except for any month during  
17 that period when the recipient's family income does not exceed 150 percent of the  
18 poverty line.

19 **SECTION 1152.** 49.471 (10) (b) 5. of the statutes, as affected by 2013 Wisconsin  
20 Act .... (this act), is amended to read:

21 49.471 (10) (b) 5. If a recipient who is required to pay a premium under this  
22 paragraph or under sub. (2m) ~~or (4) (c)~~ either does not pay a premium when due or  
23 requests that his or her coverage under this section be terminated, the recipient's  
24 coverage terminates. If the recipient is an adult, the recipient is not eligible for  
25 BadgerCare Plus for 12 consecutive calendar months following the date on which the

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## SECTION 1152

1 recipient's coverage terminated, except for any month during that 12-month period  
2 when the recipient's family income does not exceed 133 percent of the poverty line.

3 If the recipient is a child, the recipient is not eligible for BadgerCare Plus for (6)<sup>3</sup>  
4 consecutive calendar months, or <sup>up to</sup> 12 consecutive calendar months if the federal  
5 department of health and human services approves, following the date on which the  
6 recipient's coverage terminated, except for any month during that period when the  
7 recipient's family income does not exceed 150 percent of the poverty line.

8 **SECTION 1153.** 49.471 (11) (intro.) of the statutes is amended to read:

9 49.471 (11) BENCHMARK PLAN BENEFITS AND COPAYMENTS. (intro.) ~~Recipients~~  
10 Except as provided in sub. (11r) and s. 49.45 (24j), recipients who are not eligible for  
11 the benefits described in s. 49.46 (2) (a) and (b) shall have coverage of the following  
12 benefits and pay the following copayments:

13 **SECTION 1154.** 49.471 (11) (a) of the statutes is amended to read:

14 49.471 (11) (a) Subject to sub. (6) (k), prescription drugs bearing only a generic  
15 name, as defined in s. 450.12 (1) (b), with a copayment of no more than \$5 per  
16 prescription, ~~and subject to the Badger Rx Gold program discounts.~~

17 **SECTION 1155.** 49.471 (11r) of the statutes is created to read:

18 49.471 (11r) ALTERNATE BENCHMARK PLAN BENEFITS AND COPAYMENTS. (a) If the  
19 department chooses to provide the alternate benchmark plan under this subsection,  
20 the department shall provide to the recipients described under sub. (4) (e) coverage  
21 for benefits similar to those in a commercial, major medical insurance policy.

22 (b) The department may charge copayments to recipients receiving coverage  
23 under the alternate benchmark plan under this subsection that are higher than  
24 copayments charged to recipients receiving coverage under the standard plan under  
25 s. 49.46 (2). The department may not charge to a recipient of coverage under the



## ASSEMBLY BILL 40

## SECTION 1155

1 alternate benchmark plan under this subsection whose family income is at or below  
2 150 percent of the poverty line a copayment that exceeds 5 percent of the individual's  
3 family income for all members of the family.

4 (c) 1. The department may only provide coverage under the alternate  
5 benchmark plan under this subsection to the extent the alternate benchmark plan  
6 is approved by the federal department of health and human services.

7 2. If the department is providing coverage under the alternate benchmark plan  
8 under this subsection the department may discontinue coverage under the  
9 benchmark plan under sub. (11) for those individuals eligible for the alternate  
10 benchmark plan under this subsection.

11 3. The department may provide services to individuals enrolled in the alternate  
12 benchmark plan under this subsection through a medical home initiative similar to  
13 an initiative described under s. 49.45 (24j).

14 **SECTION 1156.** 49.472 (1) (c) of the statutes is amended to read:

15 49.472 (1) (c) "Independence account" means an account approved by the  
16 department that consists solely of savings, and dividends or other gains derived from  
17 those savings, from income earned from paid employment ~~after the initial date on~~  
18 ~~which~~ while an individual ~~began~~ is receiving medical assistance under this section.

19 **SECTION 1157.** 49.472 (3) (a) of the statutes is amended to read:

20 49.472 (3) (a) The individual's ~~family's~~ and his or her spouse's total net income  
21 is less than 250% of the poverty line for a family the size of the individual's family.  
22 ~~In~~ For purposes of calculating the net income under this paragraph, the department  
23 shall apply all of the exclusions specified under 42 USC 1382a (b), except that  
24 exclusions applied under 42 USC 1382a (b) (4) to earned income shall be applied to  
25 earned and unearned income combined, and shall exclude up to \$500 per month of

## ASSEMBLY BILL 40

## SECTION 1157

1 the individual's out-of-pocket medical and remedial expenses and long-term care  
2 costs, if any.

3 **SECTION 1158.** 49.472 (3) (b) of the statutes is amended to read:

4 49.472 (3) (b) The individual's assets do not exceed \$15,000. In determining  
5 assets, the department may not include assets that are excluded from the resource  
6 calculation under 42 USC 1382b (a) ~~or~~; assets accumulated in an independence  
7 account; or, to the extent approved by the federal government, income or assets from  
8 retirement benefits earned or accumulated from income or employer contributions  
9 while the individual was employed and eligible for and receiving medical assistance  
10 under this section. The department may exclude, in whole or in part, the value of a  
11 vehicle used by the individual for transportation to paid employment.

12 **SECTION 1159.** 49.472 (3) (f) of the statutes is amended to read:

13 49.472 (3) (f) The individual, if required to pay a premium under sub. (4) (a)  
14 1., maintains premium payments calculated by the department in accordance with  
15 sub. (4), unless the individual is exempted from premium payments under sub. (4)  
16 (b) ~~or~~ (5).

17 **SECTION 1160.** 49.472 (3m) of the statutes is created to read:

18 49.472 (3m) VERIFYING INCOME. The department shall verify income from work  
19 activity under sub. (3) (a) and (g) through documentation provided by the individual.  
20 The department shall require that, for an individual to be engaged in gainful  
21 employment under sub. (3) (g), the individual must be working and paying, or having  
22 withheld, federal social security and Medicare taxes and other applicable state or  
23 federal income taxes. The department shall require that the individual provide  
24 documentation of the taxes paid or withheld.

25 **SECTION 1161.** 49.472 (4) (a) (intro.) of the statutes is repealed.

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## SECTION 1162

1 **SECTION 1162.** 49.472 (4) (a) 1. of the statutes is repealed and recreated to read:

2 49.472 (4) (a) 1. An individual who is eligible for medical assistance under sub.  
3 (3) and receives medical assistance shall pay a monthly premium to the department  
4 if the individual's total earned and unearned income is equal to at least 150 percent  
5 of the poverty line for an individual.

6 **SECTION 1163.** 49.472 (4) (a) 1m. of the statutes is created to read:

7 49.472 (4) (a) 1m. Except as provided in par. (b), the premium required under  
8 subd. 1. shall be equal to 3 percent of the individual's total earned and unearned  
9 income, after the deductions specified in subd. 2., rounded down to the nearest \$25.

10 **SECTION 1164.** 49.472 (4) (a) 2. (intro.) of the statutes is amended to read:

11 49.472 (4) (a) 2. (intro.) In determining an individual's total earned and  
12 unearned income under subd. 1. 1m., the department shall disregard all of the  
13 following:

14 **SECTION 1165.** 49.472 (4) (a) 2m. of the statutes is repealed.

15 **SECTION 1166.** 49.472 (4) (a) 3. of the statutes is amended to read:

16 49.472 (4) (a) 3. The Subject to par. (b), the department may reduce the  
17 premium by 25% for an individual who is covered by private health insurance.

18 **SECTION 1167.** 49.472 (4) (b) of the statutes is amended to read:

19 49.472 (4) (b) ~~The department may waive monthly premiums that are~~  
20 ~~calculated to be below \$10~~ minimum premium payable by an individual specified in  
21 par. (a) 1. is \$50 per month. Unless otherwise provided by the department by a policy  
22 created under s. 49.45 (2m) (c), the department may not assess a monthly premium  
23 for any individual whose ~~income level, after adding the individual's~~ total earned  
24 ~~income and unearned income, is below 150% of the poverty line~~ for an individual.

## ASSEMBLY BILL 40

## SECTION 1168

1           **SECTION 1168.** 49.472 (4) (b) of the statutes, as affected by 2011 Wisconsin Act  
2   32 and 2013 Wisconsin Act .... (this act), is repealed and recreated to read:

3           49.472 (4) (b) The minimum premium payable by an individual specified in par.  
4   (a) 1. is \$50 per month. The department may not assess a monthly premium for any  
5   individual whose total earned and unearned income is below 150 percent of the  
6   poverty line for an individual.

7           **SECTION 1169.** 49.472 (5) of the statutes is amended to read:

8           49.472 (5) COMMUNITY OPTIONS PARTICIPANTS. From the appropriation under s.  
9   20.435 (7) (bd), the department may pay all or a portion of the monthly premium  
10   calculated under sub. (4) ~~(a)~~ for an individual who is a participant in the community  
11   options program under s. 46.27 (11).

12          **SECTION 1170.** 49.475 (title) of the statutes is amended to read:

13          **49.475 (title) Information about assistance program beneficiaries;**  
14   **electronic submission of claims.**

15          **SECTION 1171.** 49.475 (2) (except 49.475 (2) (title)) of the statutes is  
16   renumbered 49.475 (2) (ac), and 49.475 (2) (ac) 1. b. and 4. (intro.), as renumbered,  
17   are amended to read:

18          49.475 (2) (ac) 1. b. If subd. 1. a. applies, the nature and period of time of any  
19   coverage, benefit, or service provided, including the name, address, and identifying  
20   number of any applicable coverage plan.

21          4. (intro.) If all of the following apply, agree not to deny a claim submitted by  
22   the department under ~~par. (b)~~ subd. 2. solely because of the claim's submission date,  
23   the type or format of the claim form, or failure by a recipient to present proper  
24   documentation at the time of delivery of the service, benefit, or item that is the basis  
25   of the claim:

**ASSEMBLY BILL 40****SECTION 1172**

1           **SECTION 1172.** 49.475 (2) (bc) of the statutes is created to read:

2           49.475 (2) (bc) A 3rd party shall accept the submission of claims from the  
3           department under par. (ac) 2. in electronic form and shall timely pay the claims in  
4           the manner provided in s. 628.46 (1) and (2). For purposes of timely payment of  
5           claims under this paragraph, “written notice” under s. 628.46 (1) includes receipt of  
6           a claim in electronic form.

7           **SECTION 1173.** 49.475 (2m) (a) of the statutes is amended to read:

8           49.475 (2m) (a) The information that the department may request under this  
9           section is limited to the information specified in sub. (2) ~~(a)~~ (ac) 1. and does not  
10          include an employer’s name unless that information is necessary for the department  
11          or a provider to obtain 3rd-party payment for an item or service.

12          **SECTION 1174.** 49.475 (2m) (b) of the statutes is amended to read:

13          49.475 (2m) (b) If information under sub. (2) ~~(a)~~ (ac) 1. may be available from  
14          more than one source that includes an employer operating a self-insured plan, the  
15          department shall seek the information first from a 3rd-party administrator or other  
16          entity identified in sub. (1) (f) 7. or pharmacy benefits manager before seeking the  
17          information from the employer.

18          **SECTION 1175.** 49.475 (3) (intro.) of the statutes is amended to read:

19          49.475 (3) WRITTEN AGREEMENT. (intro.) Upon requesting a 3rd party to provide  
20          the information under sub. (2) ~~(a)~~ (ac) 1., the department and the 3rd party shall  
21          enter into a written agreement that satisfies all of the following:

22          **SECTION 1176.** 49.475 (4) (a) of the statutes is amended to read:

23          49.475 (4) (a) A 3rd party shall provide the information requested under sub.  
24          (2) ~~(a)~~ (ac) 1. within 180 days after receiving the department’s request if it is the first

**ASSEMBLY BILL 40****SECTION 1176**

1 time that the department has requested the 3rd party to disclose information under  
2 this section.

3 **SECTION 1177.** 49.475 (4) (b) of the statutes is amended to read:

4 49.475 (4) (b) A 3rd party shall provide the information requested under sub.  
5 (2) ~~(a)~~ (ac) 1. within 30 days after receiving the department's request if the  
6 department has previously requested the 3rd party to disclose information under  
7 this section.

8 **SECTION 1178.** 49.475 (5) of the statutes is amended to read:

9 49.475 (5) REIMBURSEMENT OF COSTS. From the appropriations under s. 20.435  
10 (4) (bm) and (pa), the department shall reimburse a 3rd party that provides  
11 information under sub. (2) ~~(a)~~ (ac) 1. for the 3rd party's reasonable costs incurred in  
12 providing the requested information, including its reasonable costs, if any, to develop  
13 and operate automated systems specifically for the disclosure of the information.

14 **SECTION 1179.** 49.496 (1) (a) of the statutes is renumbered 49.496 (1) (ah).

15 **SECTION 1180.** 49.496 (1) (af) of the statutes is created to read:

16 49.496 (1) (af) "Decedent" means a deceased recipient or a deceased  
17 nonrecipient surviving spouse, whichever is applicable.

18 **SECTION 1181.** 49.496 (1) (bk) of the statutes is created to read:

19 49.496 (1) (bk) "Long-term care program" means any of the following:

- 20 1. The family care program providing the benefit under s. 46.286.
- 21 2. The self-directed services option that operates under a waiver from the  
22 secretary of the federal department of health and human services under 42 USC  
23 1396n (c) in which an enrolled individual selects his or her own services and service  
24 providers.

**ASSEMBLY BILL 40****SECTION 1181**

1           3. The family care partnership program that is an integrated health and  
2 long-term care program operated under an amendment to the state medical  
3 assistance plan under 42 USC 1396u-2 and a waiver under 42 USC 1396n (c).

4           4. The program for all-inclusive care for the elderly under 42 USC 1396u-4.

5           5. Any program that provides long-term care services and is operated by the  
6 department under an amendment to the state medical assistance plan under 42 USC  
7 1396n (i) or 42 USC 1396u-2; a waiver of medical assistance laws under 42 USC  
8 1396n (c), 42 USC 1396n (b) and (c), or 42 USC 1396u; or a demonstration project  
9 under 42 USC 1315 or 42 USC 1396n (c).

10          **SECTION 1182.** 49.496 (1) (bw) of the statutes is created to read:

11           49.496 (1) (bw) “Nonrecipient surviving spouse” means any person who was  
12 married to a recipient while the recipient was receiving services for which the cost  
13 may be recovered under sub. (3) (a) and who survived the recipient.

14          **SECTION 1183.** 49.496 (1) (cm) of the statutes is created to read:

15           49.496 (1) (cm) 1. “Property of a decedent” means all real and personal property  
16 to which the recipient held any legal title or in which the recipient had any legal  
17 interest immediately before death, to the extent of that title or interest, including  
18 assets transferred to a survivor, heir, or assignee through joint tenancy, tenancy in  
19 common, survivorship, life estate, living trust, or any other arrangement.

20           2. Notwithstanding subd. 1., “property of a decedent” includes all real and  
21 personal property in which the nonrecipient surviving spouse had an ownership  
22 interest at the recipient’s death and in which the recipient had a marital property  
23 interest with that nonrecipient surviving spouse at any time within 5 years before  
24 the recipient applied for medical assistance or during the time that the recipient was  
25 eligible for medical assistance.

## ASSEMBLY BILL 40

## SECTION 1184

1           **SECTION 1184.** 49.496 (3) (a) (intro.) of the statutes is amended to read:

2           49.496 (3) (a) (intro.) Except as provided in par. (b), the department shall file  
3 a claim against the estate of a recipient, and against the estate of a nonrecipient  
4 surviving spouse, for all of the following, subject to the exclusion of any amounts  
5 under the Long-Term Care Partnership Program established under s. 49.45 (31),  
6 unless already recovered by the department under this section:

7           **SECTION 1185.** 49.496 (3) (a) 2. a. of the statutes is amended to read:

8           49.496 (3) (a) 2. a. Home-based or community-based services under 42 USC  
9 1396d (a) (7) and (8) ~~and under any waiver granted under 42 USC 1396n (c) (4) (B)~~  
10 ~~or 42 USC 1396u.~~

11           **SECTION 1186.** 49.496 (3) (a) 2. am. of the statutes is created to read:

12           49.496 (3) (a) 2. am. All services provided to an individual while the individual  
13 is participating in a long-term care program.

14           **SECTION 1187.** 49.496 (3) (a) 2. b. of the statutes is repealed.

15           **SECTION 1188.** 49.496 (3) (a) 2. c. of the statutes is repealed.

16           **SECTION 1189.** 49.496 (3) (ad) of the statutes is created to read:

17           49.496 (3) (ad) The amount the department may claim against an estate of a  
18 recipient, or an estate of a nonrecipient surviving spouse, for services that are  
19 described under par. (a) 2. am. and that are provided by a managed long-term care  
20 program funded by capitated payments is equal to the amount of the capitated  
21 payment for the recipient.

22           **SECTION 1190.** 49.496 (3) (aj) of the statutes is created to read:

23           49.496 (3) (aj) 1. Property that is subject to the department's claim under par.  
24 (a) in the estate of a recipient or in the estate of a nonrecipient surviving spouse is  
25 all property of a decedent that is included in the estate.



## ASSEMBLY BILL 40

## SECTION 1190

1           2. There is a presumption, which may be rebutted by clear and convincing  
2 evidence, that all property in the estate of a nonrecipient surviving spouse was  
3 marital property held with the recipient and that 100 percent of the property in the  
4 estate of the nonrecipient surviving spouse is subject to the department's claim  
5 under par. (a).

6           **SECTION 1191.** 49.496 (3) (am) (intro.) of the statutes is amended to read:

7           49.496 (3) (am) (intro.) The court shall reduce the amount of a claim under par.  
8 (a) by up to the amount specified in s. 861.33 (2) if necessary to allow the recipient's  
9 decedent's heirs or the beneficiaries of the recipient's decedent's will to retain the  
10 following personal property:

11           **SECTION 1192.** 49.496 (3) (c) 1. of the statutes is amended to read:

12           49.496 (3) (c) 1. If the department's claim is not allowable because of par. (b)  
13 and the estate includes an interest in any real property, including a home, the court  
14 exercising probate jurisdiction shall, in the final judgment or summary findings and  
15 order, assign the interest in the ~~home~~ real property subject to a lien in favor of the  
16 department for the amount described in par. (a). The personal representative or  
17 petitioner for summary settlement or summary assignment of the estate shall record  
18 the final judgment as provided in s. 863.29, 867.01 (3) (h), or 867.02 (2) (h).

19           **SECTION 1193.** 49.496 (3) (c) 2. of the statutes is amended to read:

20           49.496 (3) (c) 2. If the department's claim is not allowable because of par. (b),  
21 the estate includes an interest in any real property, including a home, and the  
22 personal representative closes the estate by sworn statement under s. 865.16, the  
23 personal representative shall stipulate in the statement that the ~~home~~ real property  
24 is assigned subject to a lien in favor of the department for the amount described in

**ASSEMBLY BILL 40****SECTION 1193**

1 par. (a). The personal representative shall record the statement in the same manner  
2 as described in s. 863.29, as if the statement were a final judgment.

3 **SECTION 1194.** 49.496 (3) (d) (intro.) of the statutes is amended to read:

4 49.496 (3) (d) (intro.) The department may not enforce ~~the~~ a lien under par. (c)  
5 as long as any of the following survive the decedent:

6 **SECTION 1195.** 49.496 (3) (dm) of the statutes is created to read:

7 49.496 (3) (dm) All of the following apply to a lien under par. (c) that the  
8 department may not enforce because of par. (d):

9 1. If the decedent's surviving spouse or child who is under age 21 or disabled  
10 refinances a mortgage on the real property, the lien is subordinate to the new  
11 encumbrance.

12 2. The department shall release the lien in the circumstances described in s.  
13 49.848 (5) (f).

14 **SECTION 1196.** 49.496 (6m) of the statutes is amended to read:

15 49.496 (6m) **WAIVER DUE TO HARDSHIP.** The department shall promulgate rules  
16 establishing standards for determining whether the application of this section would  
17 work an undue hardship in individual cases. If the department determines that the  
18 application of this section would work an undue hardship in a particular case, the  
19 department shall waive application of this section in that case. This subsection does  
20 not apply with respect to claims against the estates of nonrecipient surviving  
21 spouses.

22 **SECTION 1197.** 49.4962 of the statutes is created to read:

23 **49.4962 Voiding certain transfers of real property. (1) DEFINITIONS.** In  
24 this section:

25 (a) "Conveyance" has the meaning given in s. 706.01 (4).

## ASSEMBLY BILL 40

## SECTION 1197

1 (b) “Fair market value” means the price that a willing buyer would pay a willing  
2 seller for the purchase of real property.

3 (c) “Fraudulent transfer” means any of the following:

4 1. A transfer of title to real property for less than fair market value.

5 2. A transfer of title to real property by a conveyance that is not recorded during  
6 the lifetime of the grantor in the office of the register of deeds of the county in which  
7 the real property is located.

8 (d) “Grantee” has the meaning given in s. 706.01 (6).

9 (e) “Grantor” has the meaning given in s. 706.01 (6).

10 (2) VOIDABLE TRANSFERS. (a) A transfer of real property to which all of the  
11 following apply is voidable by the department:

12 1. The transfer was made by a grantor who was receiving or who received  
13 medical assistance, or by someone on his or her behalf, during the time that the  
14 grantor was eligible for medical assistance.

15 2. The department was not notified and was unaware that the transfer was  
16 made.

17 3. The transfer was made to hinder, delay, or defraud the department from  
18 recovering medical assistance benefits that were paid on behalf of the grantor.

19 (b) The department may commence an action in circuit court against the  
20 grantee to void the transfer. If the court voids the transfer, the title to the real  
21 property reverts to the grantor or his or her estate.

22 (3) PRESUMPTION. There is a presumption, which may be rebutted by clear and  
23 convincing evidence, that a transfer described in sub. (2) (a) 1. that is a fraudulent  
24 transfer was made to hinder, delay, or defraud the department from recovering  
25 medical assistance benefits that were paid on behalf of the grantor.

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1           **(4) BURDEN OF PROOF.** With respect to a transfer under sub. (1) (c) 1., the burden  
2 of proof for establishing fair market value is on the grantee. Fair market value must  
3 be established through a credible methodology, which may include an appraisal  
4 performed by a licensed appraiser.

5           **(5) INAPPLICABLE TO PURCHASER IN GOOD FAITH.** Subsection (2) does not apply if,  
6 after the transfer described in sub. (2), the real property was transferred by a  
7 conveyance to a purchaser in good faith and for a valuable consideration and the  
8 conveyance was recorded.

9           **(6) APPLICABILITY.** This section applies to any of the following transfers of real  
10 property:

11           (a) A transfer that is made on or after the effective date of this paragraph ....  
12 [LRB inserts date].

13           (b) A transfer that was made before the effective date of this paragraph .... [LRB  
14 inserts date], if the grantor is receiving medical assistance on, or receives medical  
15 assistance after, the effective date of this paragraph .... [LRB inserts date].

16           **SECTION 1198.** 49.67 of the statutes is repealed.

17           **SECTION 1199.** 49.682 (1) (am) of the statutes is created to read:

18           49.682 (1) (am) “Decedent” means a deceased client or a deceased nonclient  
19 surviving spouse, whichever is applicable.

20           **SECTION 1200.** 49.682 (1) (d) of the statutes is created to read:

21           49.682 (1) (d) “Nonclient surviving spouse” means any person who was married  
22 to a client while the client was receiving services for which the cost may be recovered  
23 under sub. (2) (a) and who survived the client.

24           **SECTION 1201.** 49.682 (1) (e) of the statutes is created to read:

**ASSEMBLY BILL 40****SECTION 1201**

1           49.682 (1) (e) 1. “Property of a decedent” means all real and personal property  
2           to which the client held any legal title or in which the client had any legal interest  
3           immediately before death, to the extent of that title or interest, including assets  
4           transferred to a survivor, heir, or assignee through joint tenancy, tenancy in common,  
5           survivorship, life estate, living trust, or any other arrangement.

6           2. Notwithstanding subd. 1., “property of a decedent” includes all real and  
7           personal property in which the nonclient surviving spouse had an ownership interest  
8           at the client’s death and in which the client had a marital property interest with that  
9           nonclient surviving spouse at any time within 5 years before the client applied for  
10          aid under s. 49.68, 49.683, or 49.685 or during the time that the recipient was eligible  
11          for aid under s. 49.68, 49.683, or 49.685.

12          **SECTION 1202.** 49.682 (2) (a) of the statutes is amended to read:

13          49.682 (2) (a) Except as provided in par. (d), the department shall file a claim  
14          against the estate of a client ~~or, and~~ against the estate of the a nonclient surviving  
15          spouse ~~of a client,~~ for the amount of aid under s. 49.68, 49.683, or 49.685 paid to or  
16          on behalf of the client.

17          **SECTION 1203.** 49.682 (2) (bm) of the statutes is created to read:

18          49.682 (2) (bm) 1. Property that is subject to the department’s claim under par.  
19          (a) in the estate of a client or in the estate of a nonclient surviving spouse is all  
20          property of a decedent that is included in the estate.

21          2. There is a presumption, which may be rebutted by clear and convincing  
22          evidence, that all property in the estate of the nonclient surviving spouse was marital  
23          property held with the client and that 100 percent of the property in the estate of the  
24          nonclient surviving spouse is subject to the department’s claim under par. (a).

25          **SECTION 1204.** 49.682 (2) (c) (intro.) of the statutes is amended to read:

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## SECTION 1204

1           49.682 (2) (c) (intro.) The court shall reduce the amount of a claim under par.  
2           (a) by up to the amount specified in s. 861.33 (2) if necessary to allow the client's  
3           ~~decedent's~~ heirs or the beneficiaries of the ~~client's~~ decedent's will to retain the  
4           following personal property:

5           **SECTION 1205.** 49.682 (2) (e) 1. of the statutes is amended to read:

6           49.682 (2) (e) 1. If the department's claim is not allowable because of par. (d)  
7           and the estate includes an interest in real property, including a home, the court  
8           exercising probate jurisdiction shall, in the final judgment or summary findings and  
9           order, assign the interest in the ~~home~~ real property subject to a lien in favor of the  
10          department for the amount described in par. (a). The personal representative or  
11          petitioner for summary settlement or summary assignment of the estate shall record  
12          the final judgment as provided in s. 863.29, 867.01 (3) (h), or 867.02 (2) (h).

13          **SECTION 1206.** 49.682 (2) (e) 2. of the statutes is amended to read:

14          49.682 (2) (e) 2. If the department's claim is not allowable because of par. (d),  
15          the estate includes an interest in real property, including a home, and the personal  
16          representative closes the estate by sworn statement under s. 865.16, the personal  
17          representative shall stipulate in the statement that the ~~home~~ real property is  
18          assigned subject to a lien in favor of the department for the amount described in par.  
19          (a). The personal representative shall record the statement in the same manner as  
20          described in s. 863.29, as if the statement were a final judgment.

21          **SECTION 1207.** 49.682 (2) (f) (intro.) of the statutes is amended to read:

22          49.682 (2) (f) (intro.) The department may not enforce ~~the a~~ a lien under par. (e)  
23          as long as any of the following survive the decedent:

24          **SECTION 1208.** 49.682 (2) (fm) of the statutes is created to read:

## ASSEMBLY BILL 40

## SECTION 1208

1           49.682 (2) (fm) All of the following apply to a lien under par. (e) that the  
2       department may not enforce because of par. (f):

3           1. If the decedent's surviving spouse or child who is under age 21 or disabled  
4       refinances a mortgage on the real property, the lien is subordinate to the new  
5       encumbrance.

6           2. The department shall release the lien in the circumstances described in s.  
7       49.848 (5) (f).

8           **SECTION 1209.** 49.682 (3) of the statutes is amended to read:

9           49.682 (3) The department shall administer the program under this section  
10       and may contract with an entity to administer all or a portion of the program,  
11       including gathering and providing the department with information needed to  
12       recover payment of aid provided under s. 49.68, 49.683, or 49.685. All funds received  
13       under this subsection, net of any amount claimed under s. ~~867.035 (3)~~ 49.849 (5),  
14       shall be remitted for deposit in the general fund.

15          **SECTION 1210.** 49.682 (5) of the statutes is amended to read:

16          49.682 (5) The department shall promulgate rules establishing standards for  
17       determining whether the application of this section would work an undue hardship  
18       in individual cases. If the department determines that the application of this section  
19       would work an undue hardship in a particular case, the department shall waive  
20       application of this section in that case. This subsection does not apply with respect  
21       to claims against the estates of nonclient surviving spouses.

22          **SECTION 1211.** 49.78 (1) (b) of the statutes is amended to read:

23          49.78 (1) (b) "Income maintenance program" means the Medical Assistance  
24       program under subch. IV of ch. 49, the Badger Care health care program under s.  
25       49.665, the food stamp program under 7 USC 2011 to 2036 except for the employment

insert  
01-22 →

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## SECTION 1211

1 and training program described in s. 49.79 (9), or the cemetery, funeral, and burial  
2 expenses program under s. 49.785.

insert  
202-3 3 → **SECTION 1212.** 49.79 (9) (a) 1. of the statutes is amended to read:

4 49.79 (9) (a) 1. The department shall administer an employment and training  
5 program for recipients under the food stamp program and may contract with county  
6 departments under ss. 46.215, 46.22, and 46.23, multicounty consortia, ~~and with~~  
7 local workforce development boards established under 29 USC 2832, tribal  
8 governing bodies, or other organizations to carry out the administrative functions.  
9 ~~The department may contract, or a~~ A county department, multicounty consortium,  
10 ~~or local workforce development board~~, tribal governing body, or other organization  
11 may subcontract, with a Wisconsin Works agency or another provider to administer  
12 the employment and training program under this subsection. Except as provided in  
13 subds. 2. and 3., the department may require able individuals who are 18 to 60 years  
14 of age who are not participants in a Wisconsin Works employment position to  
15 participate in the employment and training program under this subsection.

16 **SECTION 1213.** 49.79 (9) (a) 2. of the statutes is amended to read:

17 49.79 (9) (a) 2. The department may not require an individual who is a recipient  
18 under the food stamp program and who is the caretaker of a child under the age of  
19 ~~12-weeks~~ 6 to participate in any employment and training program under this  
20 subsection.

21 **SECTION 1214.** 49.79 (9) (b) (intro.) of the statutes is amended to read:

22 49.79 (9) (b) (intro.) ~~An~~ Except as provided in par. (c), an individual who fails  
23 to comply with the work requirements under par. (a) without good cause is ineligible  
24 to participate in the food stamp program as follows:

25 **SECTION 1215.** 49.79 (9) (c) of the statutes is created to read:



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1 49.79 (9) (c) If the department implements a policy under sub. (10), par. (b) does  
2 not apply to an individual who is required to fulfill the work requirement under sub.

3 (10)(b). (a)

4 **SECTION 1216.** 49.79 (10) of the statutes is created to read:

5 49.79 (10) ELIGIBILITY AND WORK REQUIREMENTS FOR ABLE-BODIED ADULTS. (a) In

6 this subsection, “able-bodied adult” means an individual who is not any of the  
7 following:

- 8 1. Younger than 18 years of age.
- 9 2. Fifty years of age or older.
- 10 3. Determined by the department to be medically certified as physically or
- 11 mentally unfit for employment, as described in 7 CFR 273.24 (c) (2).
- 12 4. A parent of a household member who is younger than 18 years old, even if
- 13 the household member who is younger than 18 years old is not eligible for food
- 14 stamps.
- 15 5. Residing in a household that includes a household member who is younger
- 16 than 18 years old, even if the household member who is younger than 18 years old
- 17 is not eligible for food stamps.
- 18 6. Exempt from the work requirement under the food stamp program, as
- 19 described in 7 CFR 273.24 (c) (5).
- 20 7. Pregnant.

21 (b) The department may implement a policy that complies with 7 CFR 273.24.

22 If the department implements a policy under this paragraph, all of the following  
23 apply:

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## SECTION 1216

1           1. The department shall require an able-bodied adult who is participating in  
2 the food stamp program to fulfill the work requirement defined under 7 CFR 273.24  
3 (a) (1).

4           2. If an able-bodied adult does not fulfill the work requirement, the department  
5 may limit the able-bodied adult's eligibility for food stamps to no more than 3 months  
6 during a 3-year period.

7           3. The department may exempt up to 15 percent of the able-bodied adults who  
8 are participating in the food stamp program from the time limit under subd. 2.

9           <sup>(b)</sup>  
(c) If the department determines that a waiver, or an amendment to a waiver,  
10 is necessary to implement a policy that complies with 7 CFR 273.24, the department  
11 shall request the waiver or the amendment to the waiver from the federal  
12 department of agriculture to permit the department to implement a policy that  
13 complies with 7 CFR 273.24 as provided under this subsection.

14           **SECTION 1217.** 49.826 (2) (a) 3. of the statutes is repealed.

15           **SECTION 1218.** 49.83 of the statutes is amended to read:

16           **49.83 Limitation on giving information.** Except as provided under ss.  
17 49.25 and 49.32 (9), (10), and (10m), no person may use or disclose information  
18 concerning applicants and recipients of relief funded by a relief block grant, aid to  
19 families with dependent children, Wisconsin Works under ss. 49.141 to 49.161, social  
20 services, child and spousal support and establishment of paternity and medical  
21 support liability services under s. 49.22, or supplemental payments under s. 49.77  
22 for any purpose not connected with the administration of the programs, except that  
23 the ~~department~~ departments of children and families and health services may  
24 disclose, including by transmitting or granting access to electronic data, such  
25 information, including social security numbers, to the department of revenue for the

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## SECTION 1218

1 sole ~~purpose~~ purposes of administering state taxes, including verifying refundable  
2 individual income tax credits, and collecting debts owed to the department of  
3 revenue. Any person violating this section may be fined not less than \$25 nor more  
4 than \$500 or imprisoned in the county jail not less than 10 days nor more than one  
5 year or both.

6 **SECTION 1219.** 49.84 (6) (c) 1. d. of the statutes is amended to read:

7 49.84 (6) (c) 1. d. A child who is receiving medical assistance under s. 49.46 (1)

8 (a) 13., 49.47 (4) (am) 3., or 49.471 (4) (a) 2. <sup>2. or 2m.</sup> ~~or (b) 2.~~ or an unborn child receiving  
9 prenatal care under s. 49.471.

10 **SECTION 1220.** 49.84 (7) of the statutes is created to read:

11 49.84 (7) (a) In this subsection:

12 1. “Department” means the department of health services.

13 2. “Medical Assistance” means the Medical Assistance program under subch.

14 IV.

15 (b) Except as provided in par. (c), for determining eligibility or continued  
16 eligibility the department shall electronically verify the residence of an applicant for  
17 or recipient of Medical Assistance. If the department is unable to verify the  
18 applicant’s or recipient’s residence electronically, the applicant or recipient must  
19 provide adequate proof of residency, in the manner determined by the department,  
20 to be eligible for Medical Assistance.

21 (c) The requirements under par. (b) do not apply with respect to any of the  
22 following:

23 1. An individual who is receiving benefits under the food stamp program under  
24 7 USC 2011 to 2029 or under the Temporary Assistance for Needy Families block

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1 grant program and who presented an acceptable form of residency verification for  
2 receipt of those benefits.

3 2. An individual who resides in a nursing home, intermediate care facility,  
4 inpatient psychiatric hospital, or other residential care facility and whose care in the  
5 facility is paid for by Medical Assistance.

6 3. A child residing in a foster care placement under the care and placement  
7 responsibility of a county department under s. 46.215, 46.22, or 46.23 or, in a county  
8 with a population of 500,000 or more, under the care and placement responsibility  
9 of the department of children and families.

10 **SECTION 1221.** 49.848 of the statutes is created to read:

11 **49.848 Treatment of real property owned by certain public assistance**  
12 **recipients. (1) DEFINITIONS.** In this section:

13 (a) “Department” means the department of health services.

14 (b) “Public assistance” means any services provided as a benefit under a  
15 long-term care program, as defined in s. 49.496 (1) (bk), that may be recoverable  
16 under s. 49.496 (3) (a); medical assistance under subch. IV that may be recoverable  
17 under s. 49.496 (3) (a); long-term community support services funded under s. 46.27  
18 (7) that may be recoverable under s. 46.27 (7g) (c) 1.; or aid under s. 49.68, 49.683,  
19 or 49.685 that may be recoverable under s. 49.682 (2) (a).

20 (c) “Recipient” means a person who received public assistance.

21 **(2) CREATION OF DOCUMENTS FOR RECORDING.** The department shall create all of  
22 the following for recording in the office of the register of deeds in the real estate  
23 records index:

24 (a) A document entitled “REQUEST FOR NOTICE OF TRANSFER OR  
25 ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM,” which shall require

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1 notice to the department with respect to any transfer of title to, placement of an  
2 encumbrance on, or termination of an interest in, the property to which the document  
3 relates and which shall provide notice that the department may have a claim against  
4 the property to which the document relates on the basis of providing public  
5 assistance to an individual who has or had a legal interest in the property.

6 (b) A document entitled “TERMINATION OF REQUEST FOR NOTICE OF  
7 TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM,” which  
8 shall provide notice that, with respect to property against which a REQUEST FOR  
9 NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL  
10 CLAIM has been recorded, no notice to the department is required when title to the  
11 property is transferred, an encumbrance is placed on the property, or an interest in  
12 the property is terminated.

13 (c) A document entitled “CERTIFICATE OF CLEARANCE,” which shall  
14 provide notice that, with respect to property against which a REQUEST FOR  
15 NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL  
16 CLAIM has been recorded, but against which a TERMINATION OF REQUEST FOR  
17 NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL  
18 CLAIM has not been recorded, the department has no objection to the transfer of title  
19 to, placement of an encumbrance on, or termination of an interest in, the property,  
20 and that no notice to the department is required in the future when title to the  
21 property is transferred, an encumbrance is placed on the property, or an interest in  
22 the property is terminated.

23 **(3) RECORDING OF REQUEST FOR NOTICE AND TERMINATION OF REQUEST FOR NOTICE.**

24 (a) 1. Whenever an individual becomes eligible for public assistance, and at any time  
25 during the time that an individual is eligible for public assistance, the department

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1 may record a REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND  
2 NOTICE OF POTENTIAL CLAIM if the individual has any of the following  
3 ownership interests in real property:

4 a. A current ownership interest in real property, including a marital property  
5 interest.

6 b. At any time within 5 years before the individual applied for public assistance  
7 or during the time that the individual is eligible for public assistance, a marital  
8 property interest in real property with his or her current spouse, if that spouse  
9 currently holds title to the real property.

10 2. The department shall record the document in the office of the register of  
11 deeds of the county in which the real property under subd. 1. a. or b., whichever is  
12 applicable, is located.

13 3. In this paragraph, an interest in real property includes a vendee's or vendor's  
14 interest in a land contract or an interest in real property held in a revocable trust.

15 (b) Whenever the department determines that, with respect to property  
16 against which a REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE  
17 AND NOTICE OF POTENTIAL CLAIM has been recorded, the department no  
18 longer requires notice when title to the property is transferred, an encumbrance is  
19 placed on the property, or an interest in the property is terminated, the department  
20 shall record a TERMINATION OF REQUEST FOR NOTICE OF TRANSFER OR  
21 ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM in the office of the  
22 register of deeds of the county in which the REQUEST FOR NOTICE OF  
23 TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM with  
24 respect to the property was recorded.

**ASSEMBLY BILL 40****SECTION 1221**

1           **(3m)** DISCLOSURE OF REQUEST FOR NOTICE. If, in the course of a title search on  
2   real property, a title insurance company or agent finds that a REQUEST FOR  
3   NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL  
4   CLAIM has been recorded against the property but a TERMINATION OF  
5   REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF  
6   POTENTIAL CLAIM has not been recorded against the property, the title insurance  
7   company or agent shall disclose that a REQUEST FOR NOTICE OF TRANSFER OR  
8   ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM has been recorded  
9   against the property in any report submitted preliminary to issuing, or in any  
10   commitment to offer, a certificate of title insurance for the real property.

11           **(4)** TRANSFERRING, ENCUMBERING, OR TERMINATING AN INTEREST IN PROPERTY;  
12   CLEARANCE BY THE DEPARTMENT. (a) Any person transferring title to, encumbering, or  
13   terminating an interest in, property against which a REQUEST FOR NOTICE OF  
14   TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM has  
15   been recorded, but against which a TERMINATION OF REQUEST FOR NOTICE  
16   OF TRANSFER OR ENCUMBRANCE AND NOTICE OF POTENTIAL CLAIM has  
17   not been recorded, shall notify the department of the proposed transfer,  
18   encumbrance, or termination of interest.

19           (b) If, on the date that the person sends the notice under par. (a), the recipient  
20   who had the ownership interest in the property when the department recorded the  
21   REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF  
22   POTENTIAL CLAIM is alive, the person may transfer title to, encumber, or  
23   terminate an interest in, the property with no further action by the department.

24           (c) If, on the date that the person sends the notice under par. (a), the recipient  
25   who had the ownership interest in the property when the department recorded the

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1 REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF  
2 POTENTIAL CLAIM is deceased, all of the following apply:

3 1. The department shall determine whether it has a claim against the property  
4 for amounts paid on behalf of the recipient that are recoverable under s. 46.27 (7g)  
5 (c) 1., 49.496 (3) (a), or 49.682 (2) (a).

6 2. If the department determines that it has no claim under subd. 1., the  
7 department shall issue to the person seeking to transfer title to, encumber, or  
8 terminate an interest in, the real property a CERTIFICATE OF CLEARANCE,  
9 which the person shall record along with the instrument transferring title to,  
10 encumbering, or terminating the interest in, the property.

11 3. If the department determines that it has a claim under subd. 1., the  
12 department shall follow the procedure under sub. (5).

13 4. Transferring title to, encumbering, or terminating an interest in, the  
14 property is not valid unless the department issues to the person, and the person  
15 records, a CERTIFICATE OF CLEARANCE.

16 (5) PROCEDURE IF DEPARTMENT HAS A CLAIM AGAINST REAL PROPERTY. (a) This  
17 subsection applies in any of the following situations:

18 1. If the department determines that it has a claim against real property under  
19 sub. (4) (c) 1.

20 2. Upon the death of a recipient who, immediately before death, had an  
21 ownership interest in real property, including a marital property interest, or whose  
22 surviving spouse has an ownership interest in real property in which the recipient  
23 had a marital property interest with that spouse at any time within 5 years before  
24 the recipient applied for public assistance or during the time that the recipient was  
25 eligible for public assistance, regardless of whether the department recorded a



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1     REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE AND NOTICE OF  
2     POTENTIAL CLAIM with respect to the property.

3           (b) Unless the property is being transferred under s. 867.03 or through formal  
4     or informal administration of the recipient's estate, the department shall send to the  
5     person providing the notice to the department under sub. (4) (a), or to the surviving  
6     owner of the property, whichever is applicable, a statement of claim that states all  
7     of the following:

8           1. That the department has a claim against the property that it intends to  
9     recover from the property.

10          2. The amount of and basis for the claim.

11          3. That the person has a right to an administrative hearing under par. (bm),  
12     which must be requested within 45 days after the department sent the statement of  
13     claim, on the extent and fair market value of the recipient's interest in the property  
14     and how to request an administrative hearing.

15          4. That the transferee of the recipient's interest in the property or the surviving  
16     owner of the property may request from the department a hardship waiver and how  
17     to request a hardship waiver.

18           (bm) A person who receives a statement of claim from the department under  
19     par. (b) is entitled to and may, within 45 days after the department sent the  
20     statement of claim, request a departmental fair hearing on the value of the property  
21     and the extent of the recipient's interest in the property. The value of the recipient's  
22     interest in the property shall be determined in the manner provided in s. 49.849 (5c).

23           (c) The department may recover against the property in the manner  
24     determined by the department to be appropriate, including by placing a lien on the

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1 property. Subject to par. (d), the department may enforce a lien on the property by  
2 foreclosure in the same manner as a mortgage on real property.

3 (d) The department may not enforce a lien under par. (c) as long as any of the  
4 following is alive:

5 1. The recipient's spouse.

6 2. The recipient's child who is under age 21 or disabled, as defined in s. 49.468

7 (1) (a) 1.

8 (e) If the recipient's surviving spouse or child who is under age 21 or disabled  
9 refinances a mortgage on the property, any lien under par. (c) is subordinate to the  
10 new encumbrance.

11 (f) The department shall release a lien under par. (c) that the department could  
12 not enforce because of par. (d), if any of the following applies:

13 1. The recipient's surviving spouse or child who is under age 21 or disabled sells  
14 the property for fair market value, as described in s. 49.849 (5c) (d), during the  
15 spouse's or child's lifetime.

16 2. The recipient's surviving spouse or child who is under age 21 or disabled  
17 transfers the property for less than fair market value, as described in s. 49.849 (5c)  
18 (d), during the spouse's or child's lifetime, the transferee sells the property during the  
19 spouse's or child's lifetime and places proceeds equal to the lesser of the department's  
20 lien or the sale proceeds due to the seller in a trust or bond, and the department is  
21 paid the secured amount upon the death of the recipient's spouse or disabled child  
22 or when the recipient's child who is not disabled reaches age 21.

23 3. The surviving owner or transferee of the property, who is not the recipient's  
24 surviving spouse or child who is under age 21 or disabled, sells the property during  
25 the lifetime of the recipient's surviving spouse or child who is under age 21 or

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## SECTION 1221

1 disabled and places proceeds equal to the lesser of the department's lien or the sale  
2 proceeds due to the seller in a trust or bond, and the department is paid the secured  
3 amount upon the death of the recipient's spouse or disabled child or when the  
4 recipient's child who is not disabled reaches age 21.

5 **SECTION 1222.** 49.849 of the statutes is created to read:

6 **49.849 Recovery of correct payments under certain public assistance**  
7 **programs. (1) DEFINITIONS.** In this section:

8 (a) "Decedent" means a deceased recipient or a deceased nonrecipient surviving  
9 spouse, whichever is applicable.

10 (b) "Department" means the department of health services.

11 (c) "Nonrecipient surviving spouse" means any person who was married to a  
12 recipient while the recipient was receiving public assistance and who survived the  
13 recipient.

14 (d) 1. "Property of a decedent" means all real and personal property to which  
15 the recipient held any legal title or in which the recipient had any legal interest  
16 immediately before death, to the extent of that title or interest, including assets  
17 transferred to a survivor, heir, or assignee through joint tenancy, tenancy in common,  
18 survivorship, life estate, living trust, or any other arrangement.

19 2. Notwithstanding subd. 1., "property of a decedent" includes all real and  
20 personal property in which the nonrecipient surviving spouse had an ownership  
21 interest at the recipient's death and in which the recipient had a marital property  
22 interest with that nonrecipient surviving spouse at any time within 5 years before  
23 the recipient applied for public assistance or during the time that the recipient was  
24 eligible for public assistance.

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## SECTION 1222

1 (e) “Public assistance” means any services provided as a benefit under a  
2 long-term care program, as defined in s. 49.496 (1) (bk), medical assistance under  
3 subch. IV, long-term community support services funded under s. 46.27 (7), or aid  
4 under s. 49.68, 49.683, or 49.685.

5 (f) “Recipient” means a person who received public assistance.

6 (2) RECOVERABLE AMOUNTS. (c) There is a presumption, which may be rebutted  
7 by clear and convincing evidence, that all property of the deceased nonrecipient  
8 surviving spouse was marital property held with the recipient and that 100 percent  
9 of the property of the deceased nonrecipient surviving spouse is subject to the  
10 department’s claim under par. (a).

11 (3) TRANSMITTAL OF PROPERTY UPON RECEIPT OF AFFIDAVIT. (a) Any property of a  
12 decedent that is transferred by a person who has possession of the property at the  
13 time of the decedent’s death is subject to the right of the department to recover the  
14 amounts specified in sub. (2) (a). Upon request, the person who transferred the  
15 property shall provide to the department information about the property of the  
16 decedent that the person has transferred and information about the persons to whom  
17 the property was transferred.

18 (c) An affidavit under this subsection shall contain all of the following  
19 information:

20 1. That the department has a claim against the property that it intends to  
21 recover from the property.

22 2. The amount of and basis for the claim.

23 3. That the person may have a right to an administrative hearing under sub.  
24 (5m), which must be requested within 45 days after the department sent the

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1 affidavit, on the extent and fair market value of the recipient's interest in the  
2 property.

3 4. How to request an administrative hearing under sub. (5m).

4 5. That the person may request from the department a hardship waiver, if the  
5 person co-owned the property with the decedent or is a beneficiary of the property.

6 6. How to request a hardship waiver under subd. 5.

7 (4) RECOVERY AGAINST REAL PROPERTY. (c) All of the following apply to a lien  
8 under par. (a) that the department may not enforce because of par. (b):

9 1. If the decedent's surviving spouse or child who is under age 21 or disabled  
10 refinances a mortgage on the real property, the lien is subordinate to the new  
11 encumbrance.

12 2. The department shall release the lien in the circumstances described in s.  
13 49.848 (5) (f).

14 (4m) ALLOWABLE COSTS OF SALE OF REAL PROPERTY. (a) Subject to par. (b), if any  
15 property of a decedent that is real property has been sold after the death of the  
16 decedent, only the following reasonable expenses, if any, incurred in preserving or  
17 disposing of the real property may be deducted from the sale proceeds that the  
18 department may recover:

19 1. Closing costs of sale, including reasonable attorney fees of the seller, the cost  
20 of title insurance, and recording costs.

21 2. Property insurance premiums.

22 3. Property taxes due.

23 4. Utility costs necessary to preserve the property.

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1           5. Expenses incurred in providing necessary maintenance or making necessary  
2 repairs, without which the salability of the property would be substantially  
3 impaired.

4           (b) Any expense under par. (a) may be deducted from the sale proceeds only if  
5 it is documented and approved by the department and it was not incurred while any  
6 other individual was living on the property.

7           **(5c) VALUE OF RECIPIENT'S INTEREST.** For purposes of determining the value of  
8 the recipient's interest in property of the decedent, all of the following apply:

9           (a) If the recipient held title to real property jointly with one or more persons  
10 other than his or her spouse, the recipient's interest in the real property is equal to  
11 the fractional interest that the recipient would have had in the property if the  
12 property had been held with the other owner or owners as tenants in common.

13           (b) If the recipient held title to personal property jointly with one or more  
14 persons other than his or her spouse, the recipient's interest in the personal property  
15 is equal to either of the following:

16           1. The percentage interest that was attributed to the recipient when his or her  
17 eligibility for public assistance was determined.

18           2. If the percentage interest was not determined as provided in subd. 1., the  
19 fractional interest that the recipient would have had in the property if the property  
20 had been held with the other co-owner or co-owners as tenants in common.

21           (c) If the recipient held a life estate in real property, the recipient's interest is  
22 equal to the recipient's percentage of ownership in the property based on the  
23 recipient's age on the date of death and calculated using the fair market value of the  
24 property and life estate-remainderman tables used by the department to value life  
25 estates for purposes of determining eligibility for Medical Assistance.

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1 (d) A property's fair market value is the price that a willing buyer would pay  
2 a willing seller for the purchase of the property. The burden of proof for establishing  
3 a property's fair market value is on the surviving owners or beneficiaries, or their  
4 representatives. Fair market value must be established through a credible  
5 methodology, which may include an appraisal performed by a licensed appraiser.

6 (5m) FAIR HEARING. A person who has possession of any property of the  
7 decedent, or who receives an affidavit from the department under sub. (3) (c) for  
8 transmittal of any property of the decedent, is entitled to and may, within 45 days  
9 after the affidavit was sent, request a departmental fair hearing on the value of the  
10 property and the extent of the recipient's interest in the property, if the property is  
11 not being transferred under s. 867.03 or through formal or informal administration  
12 of the decedent's estate.

13 (5r) ACTION OR ORDER TO ENFORCE RECOVERY. (a) If, after receipt of an affidavit  
14 under sub. (3), a person who possesses property of a decedent does not transmit the  
15 property to the department or timely request a hearing, the department may bring  
16 an action to enforce its right to collect amounts specified in sub. (2) (a) from the  
17 property or may issue an order to compel transmittal of the property. Any person  
18 aggrieved by an order issued by the department under this paragraph may appeal  
19 the order as a class 3 proceeding, as defined in s. 227.01 (3) (c), under ch. 227 by filing  
20 a request for appeal, within 30 days after the date of the order, with the division of  
21 hearings and appeals created under s. 15.103 (1). The date on which the division of  
22 hearings and appeals receives the request for appeal shall be the date of service. The  
23 only issue at the hearing shall be whether the person has transmitted the property  
24 to the department. The decision of the division of hearing and appeals shall be the  
25 final decision of the department.

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(b) If any person named in an order to compel transmittal of property issued under par. (a) fails to transmit the property under the terms of the order and no contested case to review the order is pending and the time for filing for a contested case review has expired, the department may present a certified copy of the order to the circuit court for any county. The sworn statement of the secretary shall be evidence of the department's right to collect amounts specified in sub. (2) (a) from the property and of the person's failure to transmit the property to the department. The circuit court shall, without notice, render judgment in accordance with the order. A judgment rendered under this paragraph shall have the same effect and shall be entered in the judgment and lien docket and may be enforced in the same manner as if the judgment had been rendered in an action tried and determined by the circuit court.

(c) The recovery procedure under this subsection is in addition to any other recovery procedure authorized by law.

(6) PAYMENTS FROM RECOVERED AMOUNTS.

SECTION 1223. 49.85 (title) of the statutes is amended to read:

**49.85 (title) Certification of certain public assistance overpayments, payment recoveries, and delinquent loan repayments.**

SECTION 1224. 49.85 (2) (a) (intro.) of the statutes is amended to read:

49.85 (2) (a) (intro.) At least annually, the department of health services shall certify to the department of revenue the amounts that, based on the notifications received under sub. (1) and on other information received by the department of health services, the department of health services has determined that it may recover under s. 49.45 (2) (a) 10., 49.497, 49.793, ~~or~~, 49.847, or 49.849, except that the



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1 department of health services may not certify an amount under this subsection  
2 unless all of the following apply:

3 **SECTION 1225.** 49.85 (2) (a) 4. of the statutes is created to read:

4 49.85 (2) (a) 4. If the determination relates to recovery of an amount under s.  
5 49.849, the determination was rendered to a judgment under s. 49.849 (5r) (b).

6 **SECTION 1226.** 49.85 (3) (a) 1. of the statutes is amended to read:

7 49.85 (3) (a) 1. Inform the person that the department of health services  
8 intends to certify to the department of revenue an amount that the department of  
9 health services has determined to be due under s. 49.45 (2) (a) 10., 49.497, 49.793,  
10 ~~or~~, 49.847, or 49.849, for setoff from any state tax refund that may be due the person.

11 **SECTION 1227.** 49.857 (1) (d) 14m. of the statutes is created to read:

12 49.857 (1) (d) 14m. A registration issued under ss. 202.12 to 202.14 or 202.22.

13 **SECTION 1228.** 50.01 (1g) (h) of the statutes is created to read:

14 50.01 (1g) (h) A private residence that is the home to adults who independently  
15 arrange for and receive care, treatment, or services for themselves from a person or  
16 agency that has no authority to exercise direction or control over the residence.

17 **SECTION 1229.** 50.03 (4m) (b) of the statutes is amended to read:

18 50.03 (4m) (b) If the applicant for licensure as a community-based residential  
19 facility has not been previously licensed under this subchapter or if the  
20 community-based residential facility is not in operation at the time application is  
21 made, the department shall issue a probationary license, except that the department  
22 may deny licensure to any person who conducted, maintained, operated or permitted  
23 to be maintained or operated a community-based residential facility for which  
24 licensure was revoked within 5 years before application is made. A probationary  
25 license shall be valid for up to 12 months from the date of issuance unless sooner

insert  
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1 suspended or revoked under sub. (5g). Prior to the expiration of a probationary  
2 license, the department shall ~~inspect~~ evaluate the community-based residential  
3 facility ~~and, if.~~ In evaluating the community-based residential facility, the  
4 department may conduct an inspection of the community-based residential facility.  
5 If, after the department evaluates the community-based residential facility, the  
6 department finds that the community-based residential facility meets the  
7 applicable requirements for licensure, the department shall issue a regular license  
8 under sub. (4) (a) 1. b. If the department finds that the community-based residential  
9 facility does not meet the requirements for licensure, the department may not issue  
10 a regular license under sub. (4) (a) 1. b.

11 **SECTION 1230.** 50.14 (2) (bm) of the statutes is amended to read:

12 50.14 (2) (bm) For intermediate care facilities for persons with an intellectual  
13 disability, ~~an amount calculated by multiplying the projected annual gross revenues~~  
14 ~~of all intermediate care facilities for persons with an intellectual disability in this~~  
15 ~~state by 0.055, dividing the product by the number of licensed beds of intermediate~~  
16 ~~care facilities for persons with an intellectual disability in this state and dividing the~~  
17 ~~quotient by 12~~ \$910.

18 **SECTION 1231.** 50.14 (2m) of the statutes is repealed.

19 **SECTION 1232.** 51.025 of the statutes is created to read:

20 **51.025 Office of children's mental health.** <sup>(1) (b)</sup> The office of children's mental  
21 health shall study and recommend ways, and coordinate initiatives, to improve the  
22 integration across state agencies of mental health services provided to children and  
23 monitor the performance of programs that provide those services.

24 **SECTION 1233.** 51.06 (6) of the statutes is amended to read:

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1           51.06 (6) SALE OF ASSETS OR REAL PROPERTY AT NORTHERN CENTER FOR THE  
2       DEVELOPMENTALLY DISABLED. The department may maintain the Northern Center for  
3       the Developmentally Disabled for the purpose specified in sub. (1), but may sell  
4       assets or real property, of the Northern Center for the Developmentally Disabled,  
5       subject to any prior action under s. 13.48 (14) (am) or 16.848 (1). If there is any  
6       outstanding public debt used to finance the acquisition, construction, or  
7       improvement of any property that is sold under this subsection, the department shall  
8       deposit a sufficient amount of the net proceeds from the sale of the property in the  
9       bond security and redemption fund under s. 18.09 to repay the principal and pay the  
10      interest on the debt, and any premium due upon refunding any of the debt. If the  
11      property was purchased with federal financial assistance, the department shall pay  
12      to the federal government any of the net proceeds required by federal law. If there  
13      is no such debt outstanding and there are no moneys payable to the federal  
14      government, or if the net proceeds exceed the amount required to be deposited or paid  
15      under this subsection, the department shall credit the net proceeds or remaining net  
16      proceeds to the appropriation account under s. 20.435 (2) (gk).

17           **SECTION 1234.** 51.20 (13) (cr) of the statutes is amended to read:

18           51.20 (13) (cr) If the subject individual is before the court on a petition filed  
19      under a court order under s. 938.30 (5) (c) 1. and is found to have committed a  
20      violation that would be a felony if committed by an adult in this state or a violation  
21      of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.085 (3m), 941.20 (1), 944.20,  
22      944.30, 944.31, 944.33 (1), 946.52, or 948.10 (1) (b), the court shall require the  
23      individual to provide a biological specimen to the state crime laboratories for  
24      deoxyribonucleic acid analysis.

25           **SECTION 1235.** 51.44 (1m) of the statutes is amended to read:

insert  
21-24  
insert  
21-25

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1 51.44 (1m) The department is the lead agency in this state for the development  
2 and implementation of a statewide system of coordinated, comprehensive  
3 multidisciplinary programs to provide appropriate early intervention services under  
4 the requirements of 20 USC 1476 1431 to 1444.

5 **SECTION 1236.** 51.44 (5) (c) of the statutes is amended to read:

6 51.44 (5) (c) Annually, submit to the chief clerk of each house of the legislature  
7 for distribution to the legislature under s. 13.172 (2) a report on the department's  
8 progress toward full implementation of the program under this section, including the  
9 progress of counties in implementing goals for participation in 5th-year  
10 requirements under 20 USC 1476 1431 to 1444.

11 **SECTION 1237.** 54.15 (8) (a) 3. of the statutes is amended to read:

12 54.15 (8) (a) 3. Any license, certificate, permit, or registration of the proposed  
13 guardian that is required under chs. 202 or 440 to 480 or by the laws of another state  
14 for the practice of a profession or occupation has been suspended or revoked.

15 **SECTION 1238.** 55.043 (4) (b) 5g. of the statutes is created to read:

16 55.043 (4) (b) 5g. Refer the case to the department of financial institutions if  
17 the financial exploitation, neglect, self-neglect, or abuse involves an individual who  
18 is required to be registered under s. 202.13 or 202.14.

19 **SECTION 1239.** 59.26 (1) (c) of the statutes is repealed.

20 **SECTION 1240.** 59.43 (1) (w) of the statutes is created to read:

21 59.43 (1) (w) Record and index the documents specified in s. 49.848 (2).

22 **SECTION 1241.** 59.43 (2) (ag) 1. of the statutes is amended to read:

23 59.43 (2) (ag) 1. Subject to s. 59.72 (5) and except as provided in par. (L), for  
24 recording any instrument entitled to be recorded in the office of the register of deeds,